

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JONATHAN ROBERTSON,

Plaintiff,

v.

STATE OF CALIFORNIA, et al.,

Defendants.

Case No. 1:23-cv-00975-JLT-HBK (PC)

ORDER DIRECTING PLAINTIFF TO SHOW
CAUSE UNDER FEDERAL RULE OF CIVIL
PROCEDURE 4(m)

ORDER NOTING VOLUNTARY
DISMISSAL UNDER RULE 41(a)(1)(A)(i) OF
CERTAIN DEFENDANTS

This matter was reassigned to the undersigned magistrate judge on July 3, 2025, and is before the Court following review of the file. (*See* Doc. No. 53).

Plaintiff filed her complaint on June 23, 2023, and her first amended complaint on August 14, 2023. (Doc. Nos. 2, 12). The Clerk of Court issued summonses for Defendants on October 6, 2023. (Doc. Nos. 16, 17). On January 24, 2024, counsel for Defendant Pallares filed a notice of appearance. (Doc. No. 29). Plaintiff subsequently filed a Second Amended Complaint (Doc. No. 32) and Defendant Pallares filed a motion to dismiss in response. (Doc. No. 32).

Noting that “no proofs of service indicating that the operative complaint in each matter [related to this case] was served on the appropriate defendant(s) ha[d] been filed with the Court,” on November 12, 2024, the previously assigned magistrate judge ordered Plaintiff’s counsel to “inform the Court why he has not filed the appropriate proofs of service with the Court” or, alternatively, file the proofs of service within seven days. (Doc. No. 44). On January 2, 2025, the

1 Court issued a second order after Plaintiff failed to respond. (Doc. No. 46). On January 6, 2025,
2 Plaintiff filed a response noting Plaintiff's voluntary dismissal of the State of California and the
3 California Department of Corrections and Rehabilitation. (Doc. No. 47).

4 Plaintiff may voluntarily dismiss any defendant or claim without a court order by filing a
5 notice of dismissal before the opposing party answers the complaint or moves for summary
6 judgment. Fed. R. Civ. P. 41 (a)(1)(A)(i). Here, no party has answered or moved for summary
7 judgment. (*See* docket). Thus, the Court will direct the Clerk of Court to correct the docket to
8 reflect Plaintiff's notice of voluntary dismissal under Rule 41(a)(1) of Defendants State of
9 California and the California Department of Corrections and Rehabilitation.

10 Although Plaintiff requests that Officer Gregory Rodriguez remain a Defendant because
11 he has been served by Plaintiff (Doc. No. 47 at 2), no proof of service as to Rodriguez has been
12 filed. (*See generally* docket). Federal Rule of Civil Procedure 4(m) requires a plaintiff to serve a
13 defendant within 90 days of filing the complaint. The time may be extended for good cause
14 shown. If a defendant is not served within the requisite period, after notice to plaintiff, the court
15 must dismiss the action without prejudice, or order that service be made within a certain time.
16 (*Id.*) (emphasis added). Because more than 90 days have passed and it appears only Defendants
17 CDCR and Pallares have been served a copy of the complaint and summons, Plaintiff is directed
18 to show good cause why Defendant Gregory Rodriguez should not be dismissed under Rule 4.

19 Accordingly, it is **ORDERED**:

20 1. Within fourteen (14) days of the date on this Order, Plaintiff shall show good
21 cause why Defendant Rodriguez should not be dismissed under Federal Rule of Civil Procedure
22 4(m).

23 2. Failure to respond to this order will result in the recommendation that Plaintiff's
24 claims against Defendant Rodriguez be dismissed without prejudice without further notice.

25 3. The Clerk of Court shall correct the docket¹ to reflect Plaintiff's notice of
26 voluntary dismissal of Defendants State of California and the California Department of

27 _____
28 ¹ Based on the defendants named in the SAC and Plaintiff's notice of voluntary dismissal, only Pallares
and Rodriguez should remain as defendants on the docket.

1 Corrections and Rehabilitation consistent with Plaintiff's construed Rule 41(a)(1)(A)(i) notice
2 (Doc. No. 47) .

3
4 Dated: July 31, 2025


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE